IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5578 OF 2005.

The State of Maharashtra. ... Applicant.

Versus.

Baban Shankar Pawar & others. ... Respondents.

Ms.S.V.Gajare, A.P.P. for the Applicant.

None for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 22nd November, 2006.

P.C.:

1. Heard the learned A.P.P. in support of the Application for grant of leave. The offences alleged against the Respondents are punishable under sections 324, 323, 504, 506 read with section 34 of the Indian Penal Code. So far as the offence under section 325 is concerned, the learned trial Judge observed that the medical certificate which is at Exh.35 does not show that the Complainant sustained any grievous hurt. The learned trial Judge has considered the evidence of all the prosecution witnesses. It is apparent that there is a dispute over a property between the Complainant and prosecution witnesses on one hand and accused persons on the other hand. The learned trial Judge has disbelieved the version of the prosecution witnesses on the ground that they were all interested witnesses and no independent witness was examined. The learned trial Judge also observed that there were material omissions in the testimony of the Complainant. The allegation of

the witnesses is that the assault was by fists and kick blows. Considering the fact that there was a dispute over the property, the conclusion of the learned trial Judge is a possible conclusion on the basis of the evidence on record. So far as the offence alleged under section 504 read with section 34 is concerned, it is observed that none of the six witnesses deposed about any specific abuses allegedly uttered by the accused persons. The Complainant made a general statement that the accused persons abused him in filthy language. That is the reason why the order of acquittal has been passed even for offence under section 504 of the Penal Code. The learned Judge has rightly held that charge under section 506 was also not proved.

2. No case is made out for grant of leave. Application is rejected.

Judge.